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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 ZEBELUM ANNU EL,

9 Plaintiff,

10 v.

11 SEA MAR KENT MEDICAL CLINIC
ET AL,

12 Defendants.

CASE NO. 23-cv-2007

ORDER

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14 This matter comes before the Court on Plaintiff Zebelum Annu El's Motion
15 for Excusable Neglect. Dkt. No. 26.

16 On June 10, 2024, Defendants Sea Mar Community Health Centers and
17 Sandy Hernandez filed a motion to dismiss Annu El's amended complaint. Dkt. No.
18 24. Opposition briefs in response to motions to dismiss must be filed no later than
19 21 days after the filing date of the motion. LCR 7(d)(4). As such, Annu El's response
20 brief was due on July 1, 2024.

21 However, Annu El did not submit his response brief until July 5, 2024. Dkt.
22 No. 27. On the same day, he also submitted the instant motion for excusable
23 neglect, asking the Court to "[p]ardon [his] belated response to the motion to

1 dismiss.” Dkt. No. 26 at 1. Annu El explained that he is a “disabled, pro se litigant,
2 with a finite amount of social expenditures at [his] disposal” and that he “suffer[s]
3 from a host of ailments i.e., psychological, physical, neurological impediments that
4 impact [his] way of life constantly.” *Id.* at 1-2.

5 “When an act may or must be done within a specified time, the court may, for
6 good cause, extend the time... on motion made after the time has expired if the
7 party failed to act because of excusable neglect.” Fed. R. Civ. P. 6(b)(1). The
8 Supreme Court has set forth a four-part test for determining whether there has
9 been excusable neglect: (1) danger of prejudice to the opposing party, (2) length of
10 delay and potential impact on judicial proceedings, (3) reason for delay, including
11 whether it was within the reasonable control of the party, and (4) whether the
12 party's conduct was in good faith. *Pioneer Investment Services Co. v. Brunswick*
13 *Associates Ltd. Partnership*, 507 U.S. 380, 395 (1993). The Ninth Circuit has
14 rejected a per se rule on excusable neglect, instead clarifying that district courts
15 have discretion to determine what constitutes excusable neglect. *Pincay v. Andrews*,
16 389 F.3d 853, 855 (2004). “Excusable neglect” is an elastic concept, equitable in
17 nature. *Id.*

18 Here, the Court finds that the four-part test for excusable neglect weighs in
19 favor of granting Annu El an extension of time. Annu El filed his response brief only
20 four days late. The Court will fully consider Defendants’ motion to dismiss, meaning
21 they are not unduly prejudiced by the late filing. Nor will the judicial process be
22 unduly burdened. Annu El attributes the four-day delay to his “ailments.” There is
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1 no sign of bad faith. The Court deems it fair and just to fully consider Annu El's
2 responsive arguments when deciding Defendants' motion to dismiss.

3 As such, the Court GRANTS Annu El's motion for excusable neglect *nunc pro*
4 *tunc* and extends the deadline for his responsive brief such that his already filed
5 response, at Dkt. No. 27, is timely.

6 It is so ORDERED.

7 Dated this 17th day of December, 2024.

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9 Jamal N. Whitehead
10 United States District Judge
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